**IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL**

**WRIT PETITION NO. 591 (MS) OF 2006**

Shiv Kumar Sharma,
S/o late Tulsi Ram Sharma,
R/o Village-Sultanpur Adampur,
Tehsil-Roorkee, District-Haridwar. .....Petitioner.

Versus

1. Board of Revenue, Lucknow now the Chief Revenue Commissioner, Uttaranchal, Dehradun.
2. Smt. Gayatri Devi, W/o late Om Datt Sharma, R/o Mohalla Shivpuri, House No. 30/1, Bhopa Road, Uttari, Muzaffarnagar (U.P.) .....Respondents.

**Dated: 18.05.2006**

**Hon'ble Rajesh Tandon, J.**

Heard Sri Lok pal Singh, Advocate for the petitioner and Standing Counsel for the Board of Revenue.

By the present writ petition, the petitioner has prayed for a writ of certiorari quashing the orders dated 11.11.1985, 20.03.1991 and 08.10.1992 (Annexures No. 3, 4 and 5 to the writ petition) passed by the courts below.

Briefly stated, according to the case of the petitioner Om Datt Sharma had executed a 'Will' dated 06.10.1981 in favour of his brothers namely Krishan Datt Sharma, Brahm Datt Sharma and Shiv Kumar Sharma, as Om Datt Sharma was a heart patient. The Will was registered subsequently in the office of Sub-Registrar, Roorkee. Respondent no. 2 moved an application for mutation of her name claiming herself to be

wife of late Om Datt Sharma and the case No. 212, 232 and 234, Gaytri Devi Vs. Om Datt Sharm were lodged U/s 34/35 of the U.P. Land Revenue Act. Petitioner and his brothers filed their objections against the mutation application and the aforesaid cases were contested by the petitioner and his brothers. After considering the respective claim of the parties, the applications moved by the respondent no. 2 were dismissed by the Nayab Tehsildar Roorkee by judgment and order dated 29-9-1984 and it was directed to record the name of Krishan Datt, Brahm Datt and Shiv Kumar in the revenue records on the basis of will dated 06.10.1981.

Aggrieved by the order dated 28.09.1984, the respondent no. 2 preferred three appeals. The appeals were consolidated by order dated 14.03.1985 and a common appeal No. 14/85 was allotted and the appeals were decided by the Sub Divisional Officer, Haridwar by judgment and order dated 11.11.1985. Aggrieved by the order dated 11.11.1985, Kishan Datt and others filed the revision nos. 23, 24 and 25 of 1985-86, Kishan Datt and others Vs. Gayatri Devi, which were dismissed by the Addl. Commissioner, Meerut by judgment and order dated 20.03.1991.

Aggrieved by the said order dated 20.03.1991, Kishan Datt and others preferred 3 revisions before the Board of Revenue, Lucknow, out of which two revisions were dismissed vide order-dated 08.10.1992, but one revision No. 58/2002-03 is still pending The order passed by the Board of Revenue is very cryptic and has not assigned the reasons in dismissing the revision.

In view of the above the matter is sent back to the Chief Revenue Commissioner, Dehradun, who shall decide the same along with Revision No. 58/2002-03 on merits. The order dated 08.10.1992 shall not come in the way of the respondents

while deciding the matter and he shall pass fresh order after hearing both the parties.

Writ petition is disposed of. No order as to costs.

(Rajesh Tandon, J.)

18.05.2006
*Rathour*